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17 Attorneys for Plaintiff  
18 PAULA MORALES OSARIO

19 SUPERIOR COURT OF CALIFORNIA  
20 COUNTY OF SAN DIEGO

21 PAULA MORALES OSARIO, on behalf  
22 of herself and similarly situated aggrieved  
23 employees,

24 Plaintiff,

25 v.

26 OLLI SALUMERIA AMERICANA, LLC  
27 and DOES 1-10, inclusive,

28 Defendants.

Case No. 37-2023-00054603-CU-0E-CTL

**COMPLAINT FOR CIVL PENALTIES  
UNDER PAGA**

Plaintiff Paula Morales Osario ("Plaintiff"), on behalf of herself and other aggrieved employees, complains and alleges as follows:

**INTRODUCTION**

1. Plaintiff, as a proxy for the state of California, brings a representative law enforcement action under the Private Attorneys General Act ("PAGA"), Labor Code Section 2698 et seq., to recover civil penalties against defendant Olli Salumeria Americana, LLC ("Defendant"). On behalf of herself and other aggrieved employees, Plaintiff seeks to recover civil penalties - 75% payable to the Labor Workforce Development Agency ("LWDA") and 25% payable to aggrieved employees - owed

**ELECTRONICALLY FILED**  
Superior Court of California,  
County of San Diego

**12/18/2023 at 09:45:11 AM**

Clerk of the Superior Court  
By Danielle Cortez, Deputy Clerk

1 by Defendant under Labor Code Section 2699 for failure to comply with various provisions of the  
2 Labor Code with respect to non-exempt employees engaged in the processing or packaging of food  
3 products ("Food Production Employees").

#### 4 JURISDICTION AND VENUE

5 2. Venue is proper in the County of San Diego because work was performed by Plaintiff  
6 and other aggrieved employees for Defendant in the County of San Diego and the legal obligations of  
7 Defendant to Plaintiff and other aggrieved employees were breached in the County of Los Angeles.

8 3. The California Superior Court has jurisdiction in this matter because Plaintiff is a  
9 resident of California, Defendant is qualified to do business in California, and Defendant regularly  
10 conducts business in California. Further, there is no federal question at issue as the claims herein are  
11 based solely on California law.

#### 12 THE PARTIES

##### 13 Plaintiff

14 4. Plaintiff worked for Defendant as a Food Production Employee from approximately  
15 2016 through October 25, 2022. During her employment with Defendant:

16 a. Defendant, in violation of Labor Code Section 512, to provide Plaintiff and other Food  
17 Production Employees with meal periods that were duty free for 30 minutes. The 30 minute meal  
18 periods provided to Food Production Employees were not duty free for 30 minutes because, after  
19 clocking out from work at the start of the meal period, Food Production Employees needed to walk  
20 from their work area to the lunch area and doff and dispose of protective clothing and equipment  
21 (including aprons, masks and hairnets), and prior to clocking back in for work at the end of the meal  
22 period Food Production Employees needed to retrieve and don protective clothing and equipment and  
23 walk from the lunch area to the production area.

24 b. Defendant, in violation of Labor Code 1198, failed to provide Plaintiff and other Food  
25 Production Employees with rest periods that were duty free as required by Wage Order 4. The rest  
26 periods provided to Food Production Employees were not duty free for 10 minutes because, at the start  
27 of their rest periods, Food Production Employees needed to walk from their work area to the rest area  
28 and doff and dispose of protective clothing and equipment (including aprons, masks and hairnets), and

1 at the end of the rest period Food Production Employees needed to retrieve and don protective clothing  
2 and equipment and walk from the rest area to the production area.

3 c. Defendant, in violation of Labor Code Section 1197, failed to pay Plaintiff and other  
4 Food Production Employees all the minimum wages owed to them because:

5 1) Defendant did not pay Food Production Employees wages for meal period time  
6 that constitutes compensable hours worked because meal periods were are not duty free for 30 minutes.

7 2). Defendant did not pay Food Production wages for the time they spent off the  
8 clock waiting to clock in or donning and doffing their protective clothing or equipment. Before  
9 clocking in for work, Food Production Employees needed to don protective clothing and equipment  
10 (including aprons, masks, hairnets, pants and steel toed boots) and wait in line to clock in; and after  
11 clocking out for work Food Production Employees needed to doff their protective clothing and  
12 equipment.

13 d) Defendant, in violation of Labor Code Section 510, failed to pay Plaintiff and other  
14 Food Production Employees all the overtime wages owed to them because Defendant did not pay Food  
15 Production Employees wages owed to them for meal period time that constitutes compensable hours  
16 worked or for the time they spent off the clock waiting to clock in or donning and doffing their  
17 protective clothing or equipment.

18 e). Defendant, in violation of Labor Code Section 226.7, failed to pay Plaintiff and other  
19 Food Production Employees premium wages owed as result of failing to provide meal periods that  
20 were duty free for 30 minutes or rest periods that were duty free for 10 minutes.

21 f) Defendant, in violation of Labor Code Section 226, failed to provide Plaintiff and other  
22 Food Production Employees with accurate or legally compliant wage statements. Because Defendant  
23 did not pay Food Production Employees wages owed to them for meal period time that constitutes  
24 compensable hours worked or for the time they spent off the clock waiting to clock in or donning and  
25 doffing their protective clothing or equipment, wage statements provided to Plaintiff and other Food  
26 Production Employees failed to state the actual amount of gross wages earned during the pay period,  
27 the actual amount of net wages earned during the pay period, and the total number of hours worked  
28 during the pay period.

1 g) Defendant, in violation of Labor Code Section 204, failed to pay Plaintiff and other  
2 Food Production Employees all the wages owed to them on regular paydays because Defendant did not  
3 pay Food Production Employees wages owed to them for meal period time that constitutes  
4 compensable hours worked or for the time they spent off the clock waiting to clock in or donning and  
5 doffing their protective clothing or equipment.

6 h) Defendant, in violation of Labor Code Sections 201 and/or 202, failed to pay Plaintiff  
7 and other Food Production Employees all the wages owed to them when their employment ended  
8 because Defendant did not pay Food Production Employees wages owed to them for meal period time  
9 that constitutes compensable hours worked or for the time they spent off the clock waiting to clock in  
10 or donning and doffing their protective clothing or equipment.

11 i) Defendant, in violation of Labor Code 1198, failed to keep accurate records of when  
12 work periods started and ended as required by Wage Order 4 because Food Production Employees had  
13 to wait in line and don protective clothing and equipment before clocking in for work, Food Production  
14 Employees needed to walk from their work area to the lunch area and doff and dispose of protective  
15 clothing and equipment after clocking out from work at the start of the meal period, Food Production  
16 Employees needed to retrieve and don protective clothing and equipment and walk from the rest area  
17 to the production area before clocking back in at the end of the meal period, and after clocking out for  
18 work Food Production Employees needed to doff their protective clothing and equipment.

19 5. Plaintiff seeks to represent similarly situated persons who are Aggrieved Employees.  
20 Aggrieved Employees are persons who, at any time since October 12, 2022 (the date one year before  
21 Plaintiff gave the LWDA notice of her allegations), worked for Defendant as a Food Production  
22 Employee in the state of California.

23 **B. Defendants**

24 6. Defendant is a limited liability company organized under the laws of the State of  
25 California. Defendant maintains its principal place of business in Oceanside, California. Defendant is  
26 engaged in the business of food production, distribution and sales and operates one or more food  
27 production facilities in the state of California. At all times relevant to this action, Defendant was the  
28 employer of Plaintiff and the other Aggrieved Employees.

1           7.     Plaintiff is ignorant of the true names, capacities, relationships and extent of  
2 participation in the conduct herein alleged, of the Defendants sued herein as Does 1 through 10, but is  
3 informed and believes and thereon alleges that said Defendants are legally responsible for the wrongful  
4 conduct alleged herein and therefore sues these Defendants by such fictitious names. Plaintiff will  
5 amend this complaint to allege their true names and capacities when ascertained.

6           8.     Plaintiff is informed and believes and thereon alleges that each Defendant acted in all  
7 respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme,  
8 business plan or policy in all respects pertinent hereto, and/or the acts of each Defendant are legally  
9 attributable to the other Defendants.

10                                   **FIRST CAUSE OF ACTION**

11                                   **CIVIL PENALTIES UNDER PAGA**

12                                   **(By Plaintiff and Aggrieved Employees against Defendants)**

13           9.     Plaintiff incorporates paragraphs 1-8 of this complaint as if fully alleged herein.

14           10.    At all times relevant to this action, Plaintiff and other Aggrieved Employees were  
15 “aggrieved employees” within the meaning of Labor Code Section 2699.

16           11.    Labor Code Sections 2699(a) and (g) authorize an aggrieved employee, on behalf of  
17 herself and other current or former employees, to bring a civil action to recover civil penalties pursuant  
18 to the procedures specified in Labor Code Section 2699.3.

19           11.    Plaintiff has complied with the procedures for bringing suit specified in Labor Code  
20 Section 2699.3. By letter dated October 12, 2023 (copy attached hereto as Exhibit 1), Plaintiff gave  
21 written notice to the LWDA via electronic filing and to Defendant via certified mail of the specific  
22 provisions of the Labor Code alleged to have been violated, including the facts and theories to support  
23 the alleged violations. Because the LWDA did not give notice within 65 calendar days after the  
24 postmark date of October 12, 2023 that it intended to investigate Plaintiff’s allegations, Plaintiff  
25 became entitled to pursue his PAGA claims in a civil action.

26           12.    Pursuant to Labor Code Sections 2699(a) and (f), Plaintiff and other Aggrieved  
27 Employees are entitled to civil penalties for Defendant’s violations of Labor Code Sections 201, 202,  
28 204, 226, 226.7, 510, 512, 1197 and 1198 in the following amounts:

1 a. For violation of Labor Code Sections 201, 202, 204, 226, 226.7, 1197 and 1198, one  
2 hundred dollars (\$100) for each employee per pay period for the initial violation and two hundred  
3 dollars (\$200) for each employee per pay period for each subsequent violation [penalty amount per  
4 Labor Code Section 2699(f)(2)].

5 b. For violation of Labor Code Section 510 and 512, fifty dollars (\$50) for each employee  
6 for each pay period in addition to an amount sufficient to recover unpaid wages for the initial violation,  
7 and for each subsequent violation, one hundred dollars (\$100) for each employee for each pay period  
8 in addition to an amount sufficient to recover unpaid wages [penalty per Labor Code Section 558].

9 13. Pursuant to Labor Code Section 2699(i), 75% of the civil penalties recovered shall be  
10 distributed to the LWDA, and 25% shall be distributed to the Aggrieved Employees.

11 14. Pursuant to Labor Code Section 2699(g), Plaintiff is entitled to an award of reasonable  
12 attorney's fees and costs in connection with his claims for civil penalties.

13 **PRAYER FOR RELIEF**

14 WHEREFORE, on behalf of herself and all other aggrieved employees, Plaintiff prays for relief  
15 and judgment against Defendants as follows:

16 A. Civil penalties under Labor Code Section 2699 (75% payable to the LWDA and 25%  
17 payable to aggrieved employees).

18 B. Costs.

19 C. Reasonable attorney's fees.

20 D. Such other relief as the Court deems just and proper.

21 Dated: December 18, 2023

KARASIK LAW FIRM

22 By *s/ Gregory N. Karasik*  
23 Gregory N. Karasik  
24 Attorneys for Plaintiff  
25  
26  
27  
28

## **EXHIBIT 1**

# KARASIK LAW FIRM

16021 Aiglon St.  
Pacific Palisades, CA 90272  
Tel. (310) 463-9761  
greg@karasiklawfirm.com

October 12, 2023

Labor and Workforce Development Agency  
Department of Industrial Relations  
Online Filing

Re: California Labor Code §2699 Letter

Aggrieved Employee: Paula Morales Osario  
Employer: Olli Salumeria Americana, LLC

This letter shall serve as notice under Labor Code Section 2699.3 that Paula Morales Osario alleges that her former employers Olli Salumeria Americana, LLC (“Olli”) has or had a practice of violating various provisions of the Labor Code with respect to non-exempt employees engaged in the processing or packaging of food products (“Food Production Employees”). Ms. Morales was employed by Olli as a Food Production Employee from approximately 2016 through October 25, 2022. Ms. Osario alleges, on behalf of herself and other Food Production Employees, that Olli violated the Labor Code in the following ways.

1. In violation of Labor Code Section 512, Olli fails to provide Food Production Employees with meal periods that are duty free for 30 minutes. The 30 minute meal periods provided to Food Production Employees are not duty free for 30 minutes because, after clocking out from work at the start of the meal period, Food Production Employees need to walk from their work area to the lunch area and doff and dispose of protective clothing and equipment (including aprons, masks and hairnets), and prior to clocking back in for work at the end of the meal period Food Production Employees need to retrieve and don protective clothing and equipment and walk from the lunch area to the production area.

2. In violation of Labor Code 1198, Olli fails to provide Food Production Employees with rest periods that are duty free as required by Wage Order 4. The rest periods provided to Food Production Employees are not duty free for 10 minutes because, at the start of their rest periods, Food Production Employees need to walk from their work area to the rest area and doff and dispose of protective clothing and equipment (including aprons, masks and hairnets), and at the end of the rest period Food Production Employees need to retrieve and don protective clothing and equipment and walk from the rest area to the production area.

3. In violation of Labor Code Section 1197, Olli fails to pay Food Production Employees all minimum wages owed to them because:

a. Olli does not pay Food Production Employees wages for meal period time that constitutes compensable hours worked because meal periods, for the reasons explained above, are not duty free for 30 minutes.

b. Olli does not pay Food Production wages for the time they spend off the clock waiting to clock in or donning and doffing their protective clothing or equipment. Before clocking in for work, Food Production Employees must don protective clothing and equipment (including aprons, masks, hairnets, pants and steel toed boots) and wait in line to clock in; and after clocking out for work Food Production Employees must doff their protective clothing and equipment.

4. In violation of Labor Code Section 510, Olli fails to pay Food Production Employees all the overtime wages owed to them because, for the reasons explained above, Olli does not pay Food Production Employees wages owed to them for meal period time that constitutes compensable hours worked or for the time they spend off the clock waiting to clock in or donning and doffing their protective clothing or equipment.

5. In violation of Labor Code Section 226.7, Olli fails to pay Food Production Employees premium wages owed as result of failing to provide, for the reasons explained above, meal periods that are duty free for 30 minutes or rest periods that are duty free for 10 minutes.

6. In violation of Labor Code Section 226, Olli fails to provide Food Production Employees with accurate or legally compliant wage statements. Because Olli does not pay Food Production Employees wages owed to them for meal period time that constitutes compensable hours worked or for the time they spend off the clock waiting to clock in or donning and doffing their protective clothing or equipment, wage statements provided to Food Production Employees fail to state the actual amount of gross wages earned during the pay period, the actual amount of net wages earned during the pay period, and the total number of hours worked during the pay period.

7. In violation of Labor Code Section 204, Olli fails to pay Food Production Employees all the wages owed to them on regular paydays because, for the reasons explained above, Olli does not pay Food Production Employees wages owed to them for meal period time that constitutes compensable hours worked or for the time they spend off the clock waiting to clock in or donning and doffing their protective clothing or equipment.

8. In violation of Labor Code Sections 201 and/or 202, Olli fails to pay Food Production employees owed when their employment ends because, for the reasons explained above, Olli does not pay Food Production Employees wages owed to them for meal period time that constitutes compensable hours worked or for the time they spend off the clock waiting to clock in or donning and doffing their protective clothing or equipment.

9. In violation of Labor Code 1198, Olli fails to keep accurate records of when work periods start and end as required by Wage Order 4, because for the reasons explained above Food Production Employees have to wait in line and don protective clothing and equipment before clocking in for work, Food Production Employees need to walk from their work area to

the lunch area and doff and dispose of protective clothing and equipment after clocking out from work at the start of the meal period, Food Production Employees need to retrieve and don protective clothing and equipment and walk from the rest area to the production area before clocking back in at the end of the meal period, and after clocking out for work Food Production Employees must doff their protective clothing and equipment.

Please advise whether the LWDA intends to investigate these allegations. If we do not receive a timely notice that the LWDA intends to do so, Ms. Osario will proceed to seek civil penalties under Labor Code Section 2699 against Olli in a civil lawsuit.

Very truly yours,

KARASIK LAW FIRM

*s/ Gregory N. Karasik*  
Gregory N. Karasik

cc: Olli Salumeria Americana, LLC  
1301 Rocky Point Drive  
Oceanside, CA 92056

Via Certified Mail